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construction. *Industrial & General Trust v. Tod*, 180 N. Y. 215. In the only other case where this point seems to have been raised, the court took the same ground.⁵ Yet where the trustees are acting in good faith, there seems to be no greater objection to giving them full power of management in reorganization than in giving them similar power after organization by means of a voting trust. Therefore, in those jurisdictions where the voting trust is held valid, the reorganization agreement giving full power should be upheld also. In each case the stockholder divests himself of the immediate power of control and trusts to the honesty and discretion of others.

TITLE BONDS AS COLOR OF TITLE. — The confusion in the decisions attempting to define color of title is doubtless due in large part to the varying objects for which it becomes necessary to determine the meaning of the phrase. Its chief importance probably still consists in its connection with the doctrine of constructive adverse possession, which confers the right to acquire title to land not actually owned or occupied¹ as well as to bring trespass for entrance upon such land.² A second class of cases, however, is becoming steadily larger as a result of special statutes of limitation making color of title an essential element in the acquisition of title to land actually occupied.³ This is especially common in statutes prescribing a comparatively short period of limitation. In some jurisdictions, indeed, the requirement appears to have been made even in the absence of express mention in the statutes.⁴ Finally, a third of the main heads under which the discussions may be grouped, comprises actions brought under legislative provisions permitting recovery for improvements to land made *bona fide* and under color of title.⁵

It is not unnatural that in applying the statutory requirements to an individual case the courts have used language so broad as to be capable of application to cases of a different class. Upon this ground some attempt has been made to explain the conflict of authority as to the necessity of an instrument in writing, the adequacy of a deed void upon its face, and similar disputed questions.⁶ Unavailing though this attempt must in part be, it at least throws light upon points not yet hopelessly involved. It is, for instance, generally stated that bonds for title or executory contracts of sale will not give color of title. An examination of the decisions, however, discloses that many of them apply only to cases arising under short limitation statutes,⁷ a strict construction of which is not inappropriate. In other cases

⁵ See *Cox v. Stokes*, 156 N. Y. 491, 507.

¹ *Jackson d. Hasbrouck v. Vermilyea*, 6 Cow. (N. Y.) 677; *Bellefontaine Imp. Co. v. Niedringhaus*, 181 Ill. 426.

² 14 HARV. L. REV. 389.

³ *Dembitz, Land Titles* § 186. Statutes requiring color of title often define it for their purposes. See *Thompson v. Cragg*, 24 Tex. 582; *Finnegan v. Campbell*, 74 Ia. 158.

⁴ That is, courts have apparently required color of title in ordinary cases of adverse possession; but the phrase seems to have been used loosely in this connection as equivalent simply to claim of title. See *Sedgwick and Wait, Trial of Title to Land*, 2d ed., §§ 763, 764.

⁵ *Boyer v. Garner*, 116 N. C. 125.

⁶ 2 Va. L. Reg. 553; *Sedgwick and Wait, Trial of Title to Land*, 2d ed., §§ 763, 764.

⁷ *Hardin v. Crate*, 78 Ill. 533.

relied upon, the vendee under the executory contract claimed to have acquired a title as against his vendor by adverse possession.⁸ Here, plainly, the holding of the vendee was in subordination to the superior title of his vendor and not adverse to it. It does not follow that the written contract should not give color of title as against a stranger; and for the purpose of giving constructive possession,⁹ or of satisfying a special statutory requirement for lands actually occupied,¹⁰ it seems that it should. An Arkansas decision has, however, gone so far as to hold that a bond for title does not give sufficient color of title to warrant a statutory recovery against a third party, the real owner, for improvements made upon land under the *bona fide* belief that the obligor on the bond had good title. *Beasley v. Equitable Securities Co.*, 84 S. W. Rep. 224. It seems fairer to construe such statutes, founded, as they are, upon equitable principles,¹¹ so as to provide for the reimbursement of those who make improvements under a *bona fide* belief that they have a right to the land, whether their color of title be legal or equitable. To the language of the Arkansas statute indeed such a construction is especially applicable;¹² but in the interpretation of acts less explicit in terms, the same reasoning must apply.

ENFORCEMENT OF RESTRICTIVE COVENANTS.—The validity of agreements restricting the use of land is universally recognized. The burden is enforced against a grantee with notice on the ground that since he took with notice he must have paid less for the property than would otherwise have been the case. Consequently to allow him to avoid the obligation would be to enrich him unjustly at the expense of the covenantee.¹ The benefit runs in favor of all within the contemplation of the covenant. An owner of land may exact a restrictive covenant for his own personal advantage;² or he may secure it for himself as owner of the land, in which case it descends to each owner of the land.³ Again, he may seek to benefit a grantee to whom he has already conveyed land.⁴ But the most frequent case is when he sells land, laid out in lots, subject to a general restriction. Under such circumstances the purchasers are deemed to have entered into reciprocal agreements.⁵ Since a prior grantee may sue a subsequent purchaser, his right rests, not on any assignment of the covenants, but on the fact that each one has purchased with reference to the general plan.⁶ Yet

⁸ *Brown v. Huey*, 103 Ga. 448; *Ormond v. Martin*, 37 Ala. 598. After payment of the purchase money the vendee's possession is adverse to his vendor. *Hart v. Bostwick*, 14 Fla. 162.

⁹ *State Bank v. Smyers*, 2 Strobb. (S. C.) 24; *Jones v. Perry*, 10 Yerg. (Tenn.) 59.

¹⁰ *Burdell v. Blain*, 66 Ga. 169; *cf. Fain v. Garthwright*, 5 Ga. 6.

¹¹ *Cox v. McDivit*, 125 Mo. 358; *Whitney v. Richardson*, 31 Vt. 300.

¹² The Arkansas statute permits recovery "if any person believing himself to be the owner either in law or equity, under color of title has peaceably improved land." Other decisions denying recovery against his vendor to one in possession under a bond for title are based upon statutes requiring the claimant to be one holding adversely. See *Seymour v. Cleveland*, 9 S. Dak. 94; *Kilburn v. Ritchie*, 2 Cal. 145.

¹ See 17 HARV. L. REV. 174, 183.

² *Equitable Co. v. Brennan*, 148 N. Y. 661.

³ *Peck v. Conway*, 119 Mass. 546.

⁴ *Barron v. Richard*, 8 Paige (N. Y.) 351.

⁵ *Tallmadge v. East Bank*, 26 N. Y. 105.

⁶ *Mulligan v. Jordan*, 50 N. J. Eq. 363.